

DEPARTMENT OF MENTAL HEALTH/MENTAL RETARDATION
SERVICES
PRIVACY PRACTICES

Effective Date: _____

THIS DOCUMENT DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE READ IT CAREFULLY.

If you have any questions about this notice, please contact the Division Privacy Liaison.

WHO WILL FOLLOW THIS NOTICE

Department of Mental Health/Mental Retardation Services (DMHMRS) practices are followed by:

- ◆ Any staff of the Department and its Divisions.
- ◆ Any health care professional authorized to enter information into your health record.
- ◆ Any member of a volunteer group we allow to help you while you receive services from the Department.
- ◆ All employees, staff, and other Department personnel and consultants/contractors.
- ◆ All state owned and operated mental health/mental retardation facilities and agents of the state providing psychiatric, drug, alcohol, mental retardation and medical services pursuant to contracts with the state will follow the terms of this notice. In addition, these entities may share health information with each other for treatment, payment, or administrative operation purposes described in this notice.

Our Responsibilities

This organization is required to:

- ◆ Maintain the privacy of your health information
- ◆ Provide you with a notice as to our legal duties and privacy practices with respect to information we collect and maintain about you
- ◆ Abide by the terms of the notice currently in effect.
- ◆ Notify you if we are unable to agree to a requested restriction/amendment
- ◆ Accommodate reasonable requests you may have to communicate health information by alternative means or at alternative locations

We reserve the right to change our practices and to make the new provisions effective for all Protected Health Information (PHI) we maintain at the time. Should our information practices change, we will mail a revised notice to the address you have

supplied us. We also maintain a website that provides information about our customer services or benefits and will post our new notice on that Web site.

We will not use or disclose your health information without your authorization, except as described in this notice.

Understanding Your Health Record/Information

Each time you visit a hospital, physician, or other healthcare provider, a record of your visit is made. This record contains information about you, including demographic information that may identify you and that relates to your past, present or future physical or mental health or condition and identifies you, or there is a reasonable basis to believe the information may identify you. For example, this information, often referred to as your health or medical record, serves as a:

- ◆ Basis for planning your care and treatment
- ◆ Means of communication among the many health professionals who are involved in your care
- ◆ Means by which you or a third-party payer can check that services billed were actually provided.

Your health record contains Protected Health Information (PHI). State and Federal law protects this information. Understanding that we expect to use and share your health information helps you to:

- ◆ Make sure it is correct,
- ◆ Better understand who what, when, where and why others may access your health information, and
- ◆ Make more informed decisions when authorizing sharing with others

Your Health information Rights

Although your health record is the physical property of the healthcare practitioner or facility that compiled it, the information belongs to you. Under the Federal Privacy Rules, 45 CFR Part 164, you have the right to:

- ◆ Request a restriction on certain uses and sharing of your information (though we are not required to agree to any such request). This means you may ask us not to use or share any part of your PHI for purposes of treatment, payment or healthcare operation. You may also ask that this information not be disclosed to family members or friends who may be involved in your care.
- ◆ Request that we send you confidential communications by alternative means or at alternative locations. Rule .522
- ◆ Obtain a paper copy of the notice of information practices upon request
- ◆ Inspect and obtain a copy of your health record. Rule 524
- ◆ Request that your health record containing PHI be changed. Rule 526

- ◆ Obtain a listing of certain health information we were authorized to share for purposes other than treatment, payment or health care operations after April 14, 2003. Rule 528
- ◆ Take back your authorization to use or share health information except to the extent that action has already been taken

Examples of Disclosures for Treatment, Payment and Health Operations

We will use your health information for treatment.

For example: Information obtained by a nurse, physician, or other member of your healthcare team will be recorded in your record and used to determine the course of treatment that should work best for you. By way of example, information about you may be sent to the Department seeking approval for program/special funding, or other eligibility factors, e.g. Preadmission Screening and Resident Review (PASRR). This may also be shared with staff in another Division of the Department. Another example: our physician will document in your record his or her expectations of the members of your healthcare team. Members of your healthcare team will then record the actions they took and their observations.

We will also provide your physician or a subsequent healthcare provider with copies of various reports that should assist him or her in treating you.

We will use your health information for payment.

For example: A bill may be sent to you or a third-party payer. The information on or accompanying the bill may include information that identifies you, as well as your diagnosis, procedures and supplies used.

We will use your health information for regular health operations.

We may use/disclose your PHI in the course of operating the department and fulfilling its responsibilities. We may use your information to determine your eligibility for publicly funded services.

For example: Staff may look at your record when reviewing the quality of services you are provided. Members of the risk or quality improvement team may use information in your health record to assess the care and outcomes in your case and others like it. This information will then be used in an effort to continually improve the quality and effectiveness of the healthcare and service we provide. We may use and disclose medical information to contact you as a reminder that you have an appointment.

We may use and disclose protected health information to tell you about or recommend treatment alternatives or other health-related benefits and services that may be of interest to you.

Business Associates: There are some services provided in our organization through contracts with Business Associates. Examples include training and other educational services from major universities, and a copy service we may use when making copies of your health record. Information shall be made available on a need-to-know basis for these activities associated with compliance with regulatory agencies. Whenever an arrangement between our office and a business associate involves the use or sharing of your protected health information, we will have a written contract that contains terms that will protect the privacy of your protected health information.

Qualified Service Organization (QSO): If you are receiving alcohol or drug abuse services from our Department, information that would identify you as a person seeking help for a substance abuse problem is protected under a separate set of federal regulations known as “Confidentiality of Alcohol and Drug Abuse Patient Records”, 42 C.F.R. Part 2. In order to facilitate communication with other organizations that provide services such as legal advice, laboratory analyses or vocational services to our organization and clients, this regulation permits us to establish a confidentiality agreement, known as a Qualified Service Organization Agreement (QSOA).

Under a QSOA this Department is permitted to share, without your consent, information about the substance abuse care that you are receiving with the other organization signing the QSOA. However, the QSOA requires that the other organization abide by these same federal confidentiality regulations in order to keep information about your substance abuse problem and the care you are receiving confidential. This means that the other organization must handle and store your information in a way that maintains its confidentiality. The organization cannot release your confidential information to anyone except back to our Department. In addition, it must resist in all judicial proceedings, any attempt to access your protected information.

Under no circumstances can our Department establish a QSOA with another organization providing substance abuse services similar to our own or with law enforcement agencies. Only you can give written permission to our Department before we can share confidential information about the treatment of your substance abuse problem with these types of organizations.

Uses and Sharing of Information Specifically Authorized by You:

For uses and disclosures of your Protected Health Information beyond treatment, payment and operations, will be made only with your written authorization, unless otherwise permitted or required by law described below.

Others involved in your Healthcare:

Unless you object, we may disclose to a member of your family, a relative, a close friend or any other person you identify, your protected health information that directly relates to that person's involvement in your health care. If you are unable to agree or object to such a disclosure, we may disclose such information as necessary if we

determine that it is in your best interest based on our professional judgment. We may use or disclose protected health information to notify or assist in notifying a family member, personal representative or any other person that is responsible for your care of your location, general condition or death.

Uses and Disclosures That We May Make Unless You Object:

Emergencies:

We may use or share your protected health information in an emergency treatment situation. If this happens, we will try to obtain your consent as soon as reasonably practicable. Finally, we may use or share your protected health information to an authorized public or private entity to assist in disaster relief efforts and to coordinate uses and disclosures to family or other individuals involved in your health care.

Other Permitted and Required Uses and Sharing That May Be Made Without Your Consent, Authorization Or Opportunity To Object. (Except as prohibited by 42CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records)

We may use and share your Protected Health Information. It will be limited to the requirements of the law including but not limited to the following instances:

Public Health:

As required by law, we may disclose your Protected Health Information to state and federal public health, or legal authorities charged with preventing or controlling disease, injury, or disability. We may share your Protected Health Information, if authorized by law, to a person who may have been exposed to a communicable disease or may be at risk of getting or spreading the disease or condition. Information will be released to avert a serious threat to health or safety. Any disclosure, however, would only be to someone authorized to receive that information pursuant to law.

Food and Drug Administration (FDA):

We may disclose to the FDA health information relative to adverse events with respect to food, supplements product and product defects, or post marketing surveillance information to enable product recalls, repairs, or replacement.

Abuse, Neglect, Exploitation:

We may disclose your relevant Protected Health Information to a Cabinet for Families and Children, that is authorized by law to receive reports of abuse, neglect and exploitation. In addition, we may disclose your relevant Protected Health Information if we believe that you have been a victim of abuse, neglect, exploitation or domestic violence to the governmental agency authorized to receive such information.

Health Oversight:

We may share your Protected Health Information to health oversight agencies such as federal and state Departments of Health and Human Services, Medicare/Medicaid Peer Review Organizations, for activities such as audits, investigations and inspections, compliance with civil rights laws.

Research:

We may disclose information to researchers when their research has been approved by an institutional review board that has reviewed the research proposal and established protocols to ensure the privacy of your health information (See Cabinet for Health Services Administrative Order, CHS 01-08, August 28, 2001) (Institutional Review Board for the Protection of Human Subjects)

Coroners, Funeral Directors, and Organ Donation

We may disclose Protected Health Information to a coroner or medical examiner for identification purposes, determining cause of death or for the coroner or medical examiner to perform other duties authorized by law. We may also disclose relevant Protected Health Information to a funeral director, as authorized by law in order to permit the funeral director to carry out their duties. We may disclose such information in reasonable anticipation of death. Protected health information may be used and disclosed for cadaveric organ, eye or tissue donation purposes.

Law Enforcement/Legal Proceedings

We may disclose mental health records for law enforcement purposes as required by law or in response to a valid subpoena, discovery request or other lawful process. These law enforcement purposes include (1) legal processes and otherwise required by law; (2) limited information requests for identification and location purposes; (3) pertaining to victims of a crime; (4) suspicion that death has occurred as a result of criminal conduct; (5) in the event that a crime occurs on the premises of the Department, including its facilities; and (6) medical emergency and it is likely that a crime has occurred. Also we may disclose information to government for national security and intelligence reasons. For example, during an FBI investigation we may release information in response to a lawful subpoena or order of the court.

Correctional Institution

Should you be an inmate of a correctional institution, we may disclose to the Corrections Cabinet health information necessary for your health and the health and safety of other individuals.

Workers Compensation

We may disclose health information to the extent authorized by and to the extent necessary to comply with laws relating to workers compensation or other similar programs established by law.

CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT INFORMATION

If you are receiving alcohol or drug abuse services from our Department, information that would identify you as a person seeking help for a substance abuse problem is protected under a separate set of federal regulations known as “Confidentiality of Alcohol and Drug Abuse Patient Records”, 42 C.F.R. Part 2. Under certain circumstances these regulations will provide your health information with additional privacy protections beyond those that have already been described.

For instance, in general, any information identifying you as addressing a substance abuse problem cannot be shared outside of this Department without your specific consent in writing to do so. Exceptions to this rule include court orders to release your health information, the provision of your health information to medical personnel in an emergency, sharing information with qualified personnel conducting research and for audits or program evaluations. As an example, before your substance abuse health related information can be released to family, friends, law enforcement, judicial and corrections personnel, public health authorities, other providers of medical services we are required to ask for your written authorization to do so.

The regulation 42 C.F.R. Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records, does allow a health care provider to comply with the Kentucky statute requiring the reporting of suspected child abuse or neglect to the Cabinet for Families and Children. However, before specific information pertaining to the care you are receiving for your substance abuse problem can be released, you must authorize the release in writing. Child abuse and neglect authorities may also pursue a court order to release the information without your written permission.

In those instances where you did authorize us to release your substance abuse related health information, the authorization will always be accompanied by a notice prohibiting the individual or agency/organization receiving your health information from re-releasing it unless permitted under the regulations 42 C.F.R., Confidentiality of Alcohol and Drug Abuse Patient Records.

Violation of the federal law and regulations by a program is a crime. Suspected violations may be reported to the United States Attorney in the district where the violation occurs.

(See 42 USC s 290dd-2 for federal law and 42 CFR Part 2 for federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records.)

Notice of Privacy Practices Availability:

This notice will be prominently posted in the 4th Floor lobby of the front entrance of 100 Fair Oaks Lane, and within each Division of the Department at said address. Individuals will be provided a hard copy and the notice will be maintained on the Department's website for downloading.

For More Information Or To Report A Problem

If you have questions and would like additional information or if you think we may have violated your privacy rights, or you disagree with a decision we made about access to your PHI, you may contact the Division Privacy Liaison at:

Division of Mental Retardation: Phone # (502) 564-7700

Division of Mental Health: Phone # (502) 564-4448

Division of Substance Abuse: Phone # (502) 564-2880

Division of Administration & Financial management: Phone # (502) 564-4860

If you believe your privacy rights have been violated, you can file a complaint with the Division Privacy Liaison (above) or with the Office of Civil Rights; US Department of Health and Human Services; 200 Independence Avenue, SW; Room 509F, HHH Building; Washington, DC 20201; or OCR Hotlines-Voice: 1-877-696-6775. There will be no retaliation for filing a complaint.

Effective date: This notice is effective on March 28, 2003

Filename: NOTICE OF PRIVACY PRACTICES--Draft 4 11-20-02
DRAFT.doc
Directory: D:\Documents and Settings\bomayo\Desktop
Template: D:\Documents and Settings\bomayo\Application
Data\Microsoft\Templates\Normal.dot
Title: NOTICE OF PRIVACY PRACTICES
Subject:
Author: darodgers
Keywords:
Comments:
Creation Date: 1/2/2003 8:48 AM
Change Number: 2
Last Saved On: 1/2/2003 8:48 AM
Last Saved By: dschroeder
Total Editing Time: 0 Minutes
Last Printed On: 1/14/2003 10:51 AM
As of Last Complete Printing
Number of Pages: 8
Number of Words: 2,820 (approx.)
Number of Characters: 16,077 (approx.)